

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

April 14, 2003 LB 454

court statute and say that if a person fails to complete the drug court, he or she can be sentenced to a short period of time in jail. "Short time in jail" is not defined. But whatever it is, that's for failing to comply with the drug court. Then if you ultimately fail, period, you can still go back and be sentenced to jail by the judge on the original charge. That's heaping up punishment on punishment, and I don't want to give it to these judges. I've not had a judge in Douglas County...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...present a proposition like that. And what the U.S. Supreme Court has said, if a person is sentenced unjustly to one day in jail, that one day of unjust sentence is cruel punishment, because it should not have been inflicted at all. So you're getting into the Eighth Amendment matters when you're going to allow this person to be sentenced for something he or she has not been convicted of. Failure to complete the drug court is not a crime. That is not a crime. But they want to punish it as a crime. Then if you ultimately don't complete it, you can be sent back to the sentencing court and sentenced on the original offense. That's worse than double jeopardy. Double jeopardy is based on being charged and punished twice for the same crime. This is being punished for something that is not a crime by being sent to jail. This is a bad bill, however Senator Aguilar tries to pretty it up. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. Senator Tyson, followed by Senator Synowiecki and Aguilar.

SENATOR TYSON: Thank you, Senator Cudaback. I would ask Senator Aguilar a couple of questions, to clear up some confusion on my part.

SENATOR CUDABACK: Would you respond, Senator Aguilar?

SENATOR AGUILAR: Yes.

SENATOR TYSON: First of all...and maybe you don't know the answer to this, and if so, we'll look elsewhere. There's only